

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare-East Godavari District-Revision Petition filed Under Section 6 of A.P.S.A.L.T.R. 1959 by Sri. Hanumanthu Satyanarayana S/o Venkanna R/o Mallavarammamillu, Addatigala(M), East Godavari District against the orders of Agent to Government, East Godavari, Kakinada in CMA No:27 of 1977 Dated:11-5-1987-Dismissed-Orders-Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms.No: 212

Dated:20-11-2008.

Read the following.

1. From Hanumanthu Satyanarayana, Revision Petition dt:10-3-1997.
2. Government Memo No. IS/943/F2/97 dt:18-3-1997.
3. High Court of Andhra Pradesh in WP No.19011 of 1997 dt 12-8-1997.
4. From the Collector, East Godavari F2/436/1997 dt:20-10-2004.
5. Government Letter No:IS/943/F2/97 dt:18-6-05,16-8-05, 17-7-06, 11-1-07, 25-1-07, 31-1-07, 21-3-2007, 3-4-2007.
6. Government Memo No:IS/943/F2/97, dt: 6-6-2007.

ORDER:

In the reference 1st read above Sri.Hanumanthu Satyanarayana S/o Venkanna R/o East Godavari District has filed a Revision Petition before the Government against the orders of Agent to Government, in CMA No: 27 of 1997 dt:11-5-1987, in respect of Acres 3.00 in R.S No. 40 of Mallavaram Mamillu (V) of East Godavari. The main grounds of the appellant in the Revision Petition among other are as here under:

- i) He obtained lease of lands in RS No.32 measuring 1.97 Hects, and RS No.40 measuring 1.69 Hects, situated in Mallavaram Mamillu village in the year 1947 from Late Muttadar of Dutcherti.
- ii) Initially, the Special Assistant Agent, Peddapuram initiated Land Transfer Regulation case No.45/75, on the complaint of one Murla Abbairreddy, who is a non-tribal (Kapu) claiming as a tribal and the Special Assistant Agent passed ejectment orders dt: 20-9-75.
- iii) Again on the report of the Special Deputy Tahasildar, Addateegala, another case No.325/76 was registered by the Special Assistant Agent Peddapuram and revised orders were issued on 23-12-76 reversing the decision given on 20-9-75 as there is no provision in Land Transfer Regulation for delivering the land with things attached to the earth (as there are 11 housed in S.No:40,a small tank and a well and fruit bearing trees raised by the non-tribal) and also that the Settlement Officer, Rajahmundry in case No: 4215/73, dt: 18-10-75 issued ryotwari patta to the above extents.

2. The brief history of the case is that Sri.Murla Abbai Reddy (Respondent in Revision Petition) tribal filed a petition in LTRPNo.45/75 before the Special Assistant Agent to Government Peddapuram, for restoration of PS Land i.e. Acres 3.00 of dry land in Mallavaran Mamillu (V) from the possession of Sri. Hanumanthu Satyanarayana (Revision Petitioner herein). After enquiry the Special Deputy Collector (TW), issued orders in LTRP No:45/75 on dt:19-9-1975 to evict whom is in possession of Scheduled Land and directed the Special Deputy Tahasildar, Addateegala to restore it to Sri. Murla Abbairreddy, (Respondent in Revision Petition). The Special Deputy Tahasildar, Addateegala who was directed to carry out eviction of the Sri Hanumanthu Satyanarayana (Revision Petitioner herein) from the PS land. He filed another case in LTRP No:325/76 against the (Non-Tribe) on the ground that there are 11 dwelling houses in PS Land besides a well and a small tent with a waste land abutting the houses and there are Lemon and Coconut trees in the backyard of the thatched shed and requested to issue revised orders in this case. The Special Assistant Agent, Peddapuram held that in earlier LTRP:45/1975, it was not carefully represented about the standing houses on the land and that there is no provision in LTR 1 of 1959 for delivering of the land with things attached to the earth, and on other hand, the Revision Petitioner (Sri.Hanumanthu Satyanarayana) was granted patta for the land by the Settlement Officer and dispose of the Petition in LTRP 325/76, dt:23-12-1976.

Aggrieved by the order of the Lower Court Sri.Murla Abbairreddy (Tribal) has filed an appeal before the Agent to Government, East Godavari District.

1. That the Lower Court has no jurisdiction to sit in judgment over a decision of it, court and to revive any decree or order of the Agency Divisional Officer.
2. That the order in 325/76 on 23-12-1976 does not effect the decision in LTRP 45/75.
3. The finding of the Lower Court stating that there is no provision in Land Transfer Regulation for delivering the land with things attached to the earth is highly wrong.
3. The Agent to Government, East Godavari District on perusal of the records set aside the orders of the Lower Court in LTRP.325/76 dt:23-12-1976 and allowed the orders issued in LTRP 45/75 dt:20-9-1975 vide CMA No:27/77 dt:11-5-1987.
4. Aggrieved by the above orders of the Agent to Government, East Godavari District, Sri.Hanumanthu Satyanarayana (Non-Tribal) had filed W.P No:7899/87 before High Court of Andhra Pradesh against the orders of Agent to Government and the same was dismissed on 12-7-1996 and the WA in 140/97 which was filed by him also dismissed on 18-2-1997 with a direction to file Revision Petition before the Government. Hence he has preferred the Revision Petition before the Government.
5. In the reference 2nd read above the Agent to Government, Rampachodavam was requested to furnish para-wise remarks and case records and the same were furnished in the reference 4th read above. After examination of the case records notices were issued to the concerned to attend the hearing of the Revision Petition on 20-07-2005, 03-09-2005, 11-08-2006, 18-01-2007, 03-02-2007, 24-03-2007, 09-04-2007 and finally the case was heard on 16-06-2007. Sri PSSV Prasad i.e son-in-law of the Revision Petitioner Sri. Hanumanthu Satyanarayana attended and represented that the Revision Petitioner died. The Counsel for petitioner submitted written arguments dt:18-06-2007 on 20-06-2007 along with Death certificate and Legal heir Certificate issued by the Mandal Revenue Officer Addateegala of East Godavari District.
6. Government after careful examination of the material evidence on record found that:
 - a) Revised orders of Special Assistant Agent, Peddapuram in 325/75, dt:23-12-1976 are not valid on the principles of law of Resjudicata.
 - b) Once ejectment orders passed, without executing the decree, there is no necessity for the Deputy Tahsildar (Debt Relief) to file another petition regarding the same property. Moreover, the second petition is not filed by the respondent in petition No.45/75 and as such it cannot be treated as revision filed by the respondent.
 - c) Finding of the lower court that there is no provision in Land Transfer Regulation for delivering the land with things attached to the earth is highly wrong. According to section 2 (d) of the Regulation, immovable property includes standing crops, timber and trees.
 - d) The order of Settlement Officer, Rajahmundry is a Xerox copy and the petitioner failed to produce original of it at any time in the lower courts and cannot be relied on it.
 - e) The PO ITDA Rampachodavaram filed an Appeal vide Case No.5/2001 before the joint Collector, East Godavari under section 4 R/W section 9 of the A.P. Muttas (Abolition and Conversion into Ryotwari) Regulation 1969 (Regulation 2 of 1969) on behalf of tribals against grant of Ryotwari patta of the P.S. land in SO.4215/73 against the Revision Petitioner. Accordingly, the appeal was allowed on 24-4-2001 holding that the Ryotwari patta granted to the Revision Petitioner herein is in violation of Land Transfer Regulation and the proceedings of the Settlement Officer, Rajahmundry in case file No. 4215/73, dt:18-10-1975 were set aside. Subsequently, no further appeal has been made by the petitioner before the Commissioner of Survey & settlements.
7. Government after careful examination of the case records find no reason to interfere with the orders of the Agent to Government, East Godavari District in CMA No:27/77 dt:11-5-1987 and accordingly dismiss the Revision Petition. The stay granted by the Hon'ble High Court of Andhra Pradesh in WP No:19011/97 dt:12-5-1997 will become in operative.

8. The Collector, East Godavari District is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,

Prl. Secretary to Government.

To

The Collector, East Godavari District.

(With RPAD of the following Records)

Case file CMA No:27/1977 containing 74 pages only.

The Additional Agent to Government, East Godavari.

The Special Deputy Collector, East Godavari

Sri. Hanumanthu Satyanarayana S/o Venkanna,

Mallavarammamillu, Addatigala (M), East Godavari District.

Sri. Murla Abbai Reddy S/o Thammayya,

Mallavarammamillu, Addatigala (M), East Godavari District.

Sri. Manmadha Reddy, Advocate,

2-2-12/4/A, Plot No.203, Durgabai Deshmuk Colony, Hyderabad.

The P.S to M (TW & RAID).

SF/SC

// FORWARDED BY ORDER //

SECTION OFFICER